

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

In re:

Jesus Jose Palmeroni, A/K/A Joseph Palmeroni,
D/B/A, JJP Consulting, LLC

Debtor(s).

N.V.E., Inc.

Movant

v.

Jesus Jose Palmeroni, A/K/A Joseph Palmeroni,
D/B/A, JJP Consulting, LLC

Civil Action No. 5:16-BK-3073-JJT

NOTICE OF MOTION

**Date and Time of Hearing:
February 6, 2018 - 9:30AM**

Place of hearing:

274 Max Rosenn U.S. Courthouse
197 South Main Street, Court room 2
Wilkes-Barre, PA 18701

NOTICE OF MOTION, RESPONSE DEADLINE, AND HEARING DATE

N.V.E., Inc. has filed a Motion for a Continuance of the Confirmation Hearing with the Court.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney you may wish to consult an attorney.)

1. If you do not want the Court to grant the relief sought in the motion or if you want the Court to consider your views on the motion, then on or before February 1, 2018, you or your attorney must do **ALL** OF THE FOLLOWING:

- a. File an answer explaining your position at:

Clerk, U.S. Bankruptcy Court
274 Max Rosenn U.S. Courthouse
197 South Main Street
Wilkes-Barre, PA 18701

If you mail your answer to the bankruptcy clerk's office for filing, you must mail it early enough so that it will be received on or before the date stated above, and

- b. Mail a copy to the Creditor's attorney and the below listed:

United States Trustee
228 Walnut Street, Suite 1190
Harrisburg, PA 17108

Charles J. DeHart, III
8125 Adams Drive, Suite A
Hummelstown, PA 17036

Law Offices of Peter G. Erdely LLC
1500 Market Street,
12th Floor, East Tower
Philadelphia PA 19102

Pashman Stein Walder Hayden, P.C.
21 Main Street, Suite 200
Hackensack, New Jersey 07601

2. If you or your attorney do not take the steps described in paragraphs 1(a) and 1 (b) above, and attend the hearing, the Court may enter an Order granting the relief requested in the Motion.

3. A hearing on the Motion is scheduled to be heard before the Honorable John J. Thomas on Date and Time of Hearing: February 6, 2018 at 9:30AM, at 274 Rosenn U.S. Courthouse, 197 South Main Street, Wilkes-Barre, PA 18701 in Courtroom 2.

4. If a copy of the motion is not enclosed, a copy of the Motion will be provided to you if you request a copy from the attorney named in paragraph 1(b).

5. You may contact the Bankruptcy Clerk's office to find out whether the hearing has been canceled because no one filed an answer.

Date: January 11, 2018

/s/ James W. Boyan III
JAMES W. BOYAN III
Pashman Stein Walder Hayden, PC
Court Plaza South, Suite 200
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Hackensack, New Jersey 07601
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ssamaro@pashmanstein.com
Attorneys for Creditor N.V.E., Inc.

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Civil Action No. 5:16-BK-3073-JJT

**MOTION FOR CONTINUANCE OF
THE CONFIRMATION HEARING**

Place of hearing:

**274 Max Rosenn U.S. Courthouse
197 South Main Street, Courtroom 2
Wilkes-Barre, PA 18701**

AND NOW COMES, James W. Boyan III, Esquire of Pashman Stein Walder Hayden, P.C. who represents N.V.E., Inc. ("NVE"), a creditor and party-in-interest of the Estate above who hereby moves, with the consent of the Chapter 13 Trustee, for a Continuance of the Confirmation Hearing currently scheduled for February 6, 2018 and the basis for the same is the following:

1. On July 27, 2016, Debtor filed a voluntary petition for relief under Chapter 13 of Title 11 of the United States Code. (Docket No. 1).
2. On July 27, 2016, the Court appointed Charles J. DeHart, III to serve as the Chapter 13 Trustee in this matter. (Docket No. 4)
3. NVE is a creditor and party-in-interest of the Estate.
4. On August 10, 2016, Debtor filed a Chapter 13 Plan. (Docket No. 12).
5. On September 8, 2016, the Trustee filed an objection to Debtor's Chapter 13 Plan. (Docket No. 20).

6. On September 30, 2016, NVE filed an objection to Debtor's Chapter 13 Plan. (Docket No. 24).

7. On October 4, 2016, NVE filed a Motion for Relief from Automatic Stay so that it could proceed with a long-running lawsuit it filed against Debtor in the United States District Court for the District of New Jersey captioned "*N.V.E., Inc. v. Palmeroni et al.*" (D.N.J. Civ. Action No. 2:06-cv-5455) (the "New Jersey Litigation"). (Docket No. 25)

8. On October 17, 2016, Debtor filed a First Amended Chapter 13 Plan. (Docket No. 29).

9. On October 31, 2016, the Trustee filed an objection to Debtor's First Amended Chapter 13 Plan. (Docket No. 40).

10. On November 16, 2016, NVE filed an objection to Debtor's First Amended Chapter 13 Plan. (Docket No. 47).

11. On November 22, 2016, the Court granted NVE's Motion for Relief from the Stay. (Docket No. 51).

12. On February 17, 2016, NVE filed a Motion for Relief from the Stay with the concurrence of Debtor so that the New Jersey Litigation could proceed to trial. (Docket No. 59).

13. On February 22, 2016, the Court granted NVE's Motion for Relief. (Docket No. 60).

14. On March 3, 2016, Debtor filed a Second Amended Chapter 13 Plan. (Docket No. 61).

15. On March 10, 2017, the Trustee filed an Objection to Debtor's Second Amended Chapter 13 Plan. (Docket No. 63).

16. On March 30, 2017, NVE filed an Objection to Debtor's Second Amended Chapter 13 Plan. (Docket No. 65).

17. On June 5, 2017, NVE sent Debtor a Request for the Production of Documents pursuant to Rules 9014 and 7034 of the Federal Rules of Bankruptcy Procedure and Rule 34 of the Federal Rules of Civil Procedure.

18. On June 5, 2017, NVE sent Debtor a Deposition Notice Rules 9014 and 7030 of the Federal Rules of Bankruptcy Procedure and Rule 30 of the Federal Rules of Civil Procedure, noticing his deposition for July 6, 2017.

19. On June 7, 2017, the Chapter 13 Trustee filed a motion to dismiss for material default. (Docket No. 81).

20. On June 16, 2017, Debtor moved for a protective order seeking an adjournment of his deposition until sometime after the trial in the New Jersey Litigation is complete. (Docket No. 82).

21. On June 19, 2017, the Court denied Debtor's Motion for a Protective Order.

22. Debtor has not responded to NVE's Request for the Production of Documents.

23. On July 6, 2017, the Trustee withdrew his motion to dismiss. (Docket No. 94).

24. On July 24, 2017, the Court granted NVE's Motion to Amend its Objection and gave the Company leave to file an Adversary Complaint. (Docket No. 98).

25. On August 7, 2017, Debtor filed a notice of appeal challenging this Court's Order granting NVE's Motion to Amend. (Docket No. 102).

26. Debtor's appeal is currently pending before the Honorable A. Richard Caputo, U.S.D.J. in the U.S. District Court for the Middle District of Pennsylvania.

27. NVE and Debtor are prepared to begin the trial of the New Jersey Litigation

28. The trial of the New Jersey Litigation is likely to resolve certain issues that would otherwise need to address by this Court before Debtor's Second Amended Plan can be confirmed.

29. For example, the trial in the New Jersey Litigation will establish the amount of NVE's claim against Debtor.

30. The trial in the New Jersey Litigation will also impact the issue of whether NVE's claim against Debtor is dischargeable.

31. In addition, Debtor has a pending appeal from an Order of this Court which could impact the confirmation hearing.

32. On September 20, 2017, the Trustee filed a Motion to Dismiss for Material Default. (Docket No. 119).

33. On October 17, 2017, the Trustee withdrew the Motion to Dismiss. (Docket No. 132).

34. On December 7, 2017, the Trustee filed a Motion to Dismiss for Material Default which was returnable on January 9, 2018. (Docket No. 133).

35. On January 8, 2018, the Trustee and the Debtor entered into a stipulation concerning the Motion to Dismiss (the "Stipulation"). (Docket No. 135).

36. On January 10, 2018, the Court entered an Order approving the Stipulation. (Docket No. 136).

37. Pursuant to the Stipulation, the Debtor must "pay the arrears within 90 days" of the date of the Stipulation. In addition, the Debtor must make all regular monthly payments beginning in January 2018.

38. If Debtor fails to comply with the terms of the Stipulation, “the case may be dismissed upon certification of the Trustee, without further notice to part [sic] or further hearing.”

39. The Debtor has materially defaulted on his proposed plan on several occasions. (*See supra*, ¶¶ 19, 32, 34).

40. If the Debtor defaults again, this matter will be dismissed pursuant to the Stipulation which will make the Confirmation Hearing unnecessary.

41. The Trustee consents to NVE’s motion for a continuance.

42. For all of these reasons, a continuance of the confirmation hearing is appropriate.

WHEREFORE, NVE respectfully request this Court to enter an Order:

- (i) Continuing the confirmation hearing until June 2018; and
- (ii) Granting such other and further relief as is just and proper.

Respectfully submitted,

PASHMAN STEIN WALDER HAYDEN
A Professional Corporation
Attorneys for Movant N.V.E., Inc.

/s/ James W. Boyan III
JAMES W. BOYAN III
Member of the Firm
Court Plaza South, Suite 200
21 Main Street
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ORDER

Place of Hearing:
274 Max Rosenn U.S. Courthouse
197 South Main Street
Wilkes-Barre, PA 18701

ORDER OF COURT

AND NOW, to wit, this_____ day of _____2018, upon consideration of the Motion for a Continuance of the Confirmation Hearing filed by N.V.E., Inc. ("NVE"), it is hereby **ORDERED, ADJUDGED, AND DECREED** that NVE's Motion is granted; and it is further

ORDERED that the Confirmation Hearing is rescheduled for _____.

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MIDDLE DISTRICT OF PENNSYLVANIA**

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CERTIFICATION OF SERVICE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion for a Continuance of the Confirmation Hearing was served on the parties listed below via ECF notification:

United States Trustee, 228 Walnut Street, Suite 1190, Harrisburg, PA 17101;

Charles J. DeHart III, Chapter 13 Trustee, 8125 Adams Drive, Suite A,
Hummelstown, PA 17036; and

Randall W. Turano, Attorney for Jesus Jose Palmeroni, D/B/A JJP Consulting,
LLC, 802 Monroe Street, Stroudsburg, PA 18360.

Date: January 11, 2018

/s/ James W. Boyan III
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